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The Boeing Company *and* International Association of Machinists and Aerospace Workers, AFL–CIO, Petitioner. Case 11–RC–6424

December 20, 2001

DECISION ON REVIEW AND ORDER

BY CHAIRMAN HURTGEN AND MEMBERS LIEBMAN AND WALSH

On November 13, 2000, the Regional Director for Region 11 issued a Decision and Direction of Election (relevant portions of which are attached as an appendix) finding appropriate the petitioned-for unit of recovery and modification employees, including mechanics, tools and parts attendants, and quality assurance employees employed by the Employer at its Charleston Air Force Base location in South Carolina. Thereafter, pursuant to Section 102.67 of the National Labor Relations Board's Rules and Regulations, the Employer filed a timely request for review of the Regional Director's determination, contending that the petitioned-for unit is not appropriate and that the only appropriate unit is one that includes all employees at Charleston Air Force Base. By Order dated December 7, 2000, the Board granted the Employer's request for review.[1] Thereafter, the Employer filed a brief on review.

Having carefully examined the entire record and the brief on review, we reverse the Regional Director's finding that the petitioned-for unit is appropriate and find that the smallest appropriate unit must include all production and maintenance employees at the Charleston Air Force facility.

Facts

The Employer maintains and repairs G17 cargo aircraft for the United States Air Force at the Charleston Air Force Base in Charleston, South Carolina. The portion of the Air Force base devoted to the Employer's operation encompasses four buildings (buildings 80, 543, 545, and 551) and a 1-1/2 mile long flight line. The four buildings are all located within 500 yards of each other and the flight line.

The petitioned-for recovery and modification (RAM) group, which consists of five mechanic aircraft mechanical employees, three mechanic aircraft electrical employees, one aircraft inspector, and one material handler, works on the flight line. This group is responsible for repairing, inspecting, and maintaining the engines of C-17 aircraft pursuant to the orders of the United States Air Force. RAM employees utilize time compliance tech order kits (TCTO kits), which include all of the parts needed to inspect and repair a specific engine part. Before beginning the repairs and inspections indicated in the TCTO kits, RAM employees also do a general inspection of the aircraft. If during that inspection, the RAM employees discover a problem with a portion of the engine not due for repair according to that aircraft's TCTO kit, the RAM group is responsible for notifying the United States Air Force of this problem and, if directed, repairing that portion of the engine as well.

The engine support equipment (ESE) group, which consists of eight mechanics and one quality specialist, works mainly in building 545. This group is responsible for maintaining, inspecting, and repairing the support equipment used by the RAM employees. This support equipment literally supports the engines or portions of engines while the RAM employees are repairing them on the flight line. The ESE group is also responsible for servicing the support equipment, both in building 545 and on the flight line. The ESE group delivers the support equipment to the flight line upon request of the RAM group and subsequently removes it. Finally, the ESE group is sometimes responsible for repairing C-17 engines. This responsibility arises if a RAM employee determines that the engine cannot be fixed on the flight line. The damaged engine is then removed from the wing of the aircraft, transferred to building 545, repaired by an ESE employee, and stored in building 545 for future use.

The repair of repairables (ROR) group, which consists of four ROR coordinators, eight ROR analysts, and one lead ROR analyst, works in buildings 80, 543, and 545. This group is responsible for storing all of the parts and materials needed to repair G17 aircraft, including the TCTO kits. When a RAM employee needs a specific part or TCTO kit, either an ROR employee will deliver that item to the RAM employee or the RAM employee will pick it up from ROR. If a RAM employee needs a specific part that the ROR group does not have in stock, the ROR group is responsible for ordering that part and delivering it to the RAM employee upon its arrival. Finally, if a RAM employee has a part that cannot be fixed on the flight line, the RAM employee will bring it to the ROR group, which then packages the part and ships it out for repair.

Analysis

The Petitioner seeks to represent a unit limited to the 10 RAM employees. The Regional Director found that because the RAM employees work on different equip-

[1] On December 12, 2000, the Board denied the Employer's motion to stay the election.

ment, are geographically separate from the ESE and ROR employees, and have minimal contact or interchange with those employees, they alone constitute an appropriate unit for collective bargaining. We disagree.

The Board's procedure for determining an appropriate unit under Section 9(b) is to examine first the petitioned-for unit. If that unit is appropriate, then the inquiry into the appropriate unit ends. If the petitioned-for unit is not appropriate, the Board may examine the alternative units suggested by the parties, but it also has the discretion to select an appropriate unit that is different from the alternative proposals of the parties. See, e.g., *Overnite Transportation Co.*, 331 NLRB No. 85, slip op. at 2 (2000); *NLRB v. Lake County Assn. for the Retarded*, 128 F.3d 1181, 1185 fn. 2 (7th Cir. 1997). The Board generally attempts to select a unit that is the smallest appropriate unit encompassing the petitioned-for employee classifications. See, e.g., *Bartlett Collins Co.*, 334 NLRB No. 76 (2001), and *State Farm Mutual Automobile Insurance Co.*, 163 NLRB 677 (1967). In determining whether the employees in the unit sought possess a separate community of interest, the Board examines such factors as mutuality of interest in wages, hours, and other working conditions; commonality of supervision; degree of skill and common functions; frequency of contact and interchange with other employees; and functional integration. *Ore-Ida Foods*, 313 NLRB 1016 (1994), affd. 66 F.3d 328 (7th Cir. 1995). It is well settled that the unit need only be an appropriate unit, not the most appropriate unit. *Morand Bros. Beverage Co.*, 91 NLRB 409, 419 (1950), enfd. on other grounds 190 F.2d 576 (7th Cir. 1951).

We find, contrary to the Regional Director, that the RAM employees do not possess a community of interest separate and distinct from the ESE and ROR employees that would justify a separate unit of RAM employees. The ESE employees have the same skills, qualifications, and certifications as the RAM employees. The RAM employees do not receive specialized training or participate in an apprenticeship program. Rather, the ESE and RAM employees attend the same Employer-provided training and certification classes. In fact, during the last year, the ESE and RAM employees have attended 6 weeks of training classes together.[2] Moreover, ESE and RAM employees do the same type of work, albeit usually on different types of equipment. If a C-17 engine cannot be repaired on the flight line, however, an ESE employee will be responsible for that engine's repair.

Additionally, the ESE and ROR employees' work is highly integrated with that of the RAM employees. The ESE employees supply and service the support equipment needed by the RAM employees to hold the aircraft engine, or portions of the engine, during repairs. The ROR employees supply the TCTO kits that direct the RAM employees' work. In sum, the Employer's servicing of the C-17 aircraft is only accomplished through the coordinated efforts of the RAM, ESE, and ROR groups.

Finally, the RAM, ESE, and ROR employees receive the same benefits, are subject to the same personnel policies, receive comparable wages, share a common lunch area, and, on occasion, permanently transfer into each other's group.[3]

We recognize that the RAM employees are separately supervised, attend separate employee meetings, work in a separate area from the ESE and ROR employees, and never temporarily transfer into the ESE or ROR groups. These distinctions, however, are offset by the highly integrated workforce, the similarity in training and job functions between the RAM and ESE employees, and the comparable terms and conditions of employment among all three groups. *Chromalloy Photographic Industries*, 234 NLRB 1046 (1978).[4]

For these reasons, we conclude that a unit consisting of the RAM, ESE, and ROR employees constitutes the smallest appropriate unit. Accordingly, we reverse the Regional Director's decision and find appropriate a unit consisting of RAM employees, including mechanics, tools and parts attendants, and quality assurance employees; ESE employees, including mechanics and quality specialists; and ROR employees, including repair of repairables coordinators, analysts, and lead analysts.

[2] William Kenneth Forsher Jr., manager of the RAM group, testified at the hearing that one of the reasons all ESE employees are required to have the same qualifications, training, and skills as the RAM employees is because the Employer plans to utilize the ESE employees as backup for the RAM employees in the near future.

[3] In the past year, there has been one permanent transfer from the ROR group to the ESE group and three permanent transfers from the RAM group to the ESE group.

[4] In making his determination, the Regional Director relied heavily on an earlier proceeding, Case 11–RC–6312, involving the same Employer. We do not attach any weight to this decision as unreviewed Regional Director's decisions have no precedential value. *Rental Uniform Service*, 330 NLRB 334, 336 fn. 10 (1999). Moreover, the ESE group did not exist at the time of that earlier decision.

ORDER

This proceeding is remanded to the Regional Director for further appropriate action consistent with this decision.

Dated, Washington, D.C. December 20, 2001

Peter J. Hurtgen, Chairman

Wilma B. Liebman, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

MEMBER WALSH, dissenting.

For the reasons stated by the Regional Director, I would find the petitioned-for unit appropriate.

Dated, Washington, D.C. December 20, 2001

Dennis P. Walsh, Member

NATIONAL LABOR RELATIONS BOARD

APPENDIX

DECISION AND DIRECTION OF ELECTION

The Employer is a Delaware corporation with its headquarters in Seattle, Washington, and a business situs at the Charleston Air Force Base in South Carolina where it is engaged in the manufacture, modification and repair of aircraft. During the preceding 12-month period, the Employer purchased and received goods and materials valued in excess of $50,000 directly from points outside the State of South Carolina, and during the same period of time the Employer derived gross revenues in excess of $50,000 for services it performed.

International Association of Machinists and Aerospace Workers, AFL–CIO (the Petitioner), seeks to represent the following unit: all recovery and modification employees including mechanics, tool and parts attendants and quality assurance employees employed by the Employer at its Charleston Air Force Base location; excluding all temporary employees, independent contractors, office clerical employees, professional employees, guards and supervisors as defined by the Act. There are approximately 10 employees in the unit the Petitioner seeks to represent, and this departmental group is identified in the record as the RAMS Team. In a previous decision in Case 11–RC–6312, the undersigned specifically found the departmental unit sought by the Petitioner herein to be an appropriate unit. In this regard, the current record testimony established that the classification formerly named "tools and parts attendant" is now denominated as "material handler." Thus, the unit description in Case 11–RC–6312 contained a "tool and parts attendant" classification.

The Employer proposes that the unit herein should include all resident production, maintenance and warehouse employees employed by the employer at its Charleston Air Force Base location, including those holding the position of inspector aircraft, mechanic aircraft, electrical mechanic aircraft, mechanical, support equipment mechanic, quality specialist 3, material handler, repair of repairable analyst, lead repair of repairable analyst, and repair of repairable coordinators, but excluding all visiting speed line employees, all employees of United Air Lines and all temporary employees, independent contractors, office clerical employees, professional employees, guards and supervisors as defined by the Act. There are approximately 30 employees in the unit proposed by the Employer, comprised of the RAMS Team employees and two additional departmental groups identified in the record as Repair of Repairable Technicians (ROR employees) and Engine Support Equipment employees (ESE employees). The undersigned Regional Director specifically excluded ROR employees from the unit found appropriate in Case 11–RC–6312. However, the Employer argues that the decision in Case 11–RC–6312 is not a "final and binding adjudication." The Employer further argues that because the ESE department did not exist at the time of the decision in Case 11–RC–6312, the overall nature of the workplace has changed since the earlier decision and that RAMS employees, ROR employees and ESE employees now perform tasks that are functionally interrelated in servicing and maintaining C-17 aircraft for the United States Air Force, making a departmental unit comprised of RAMS Team employees an inappropriate unit. Alternatively, the Employer argues that the minimum appropriate unit must contain RAMS Team employees and ESE employees. There is no bargaining history involving the Employer at the location in question.

Contrary to the Employer's assertion that "the overall nature of the workplace has changed since the earlier decision," I find that the record herein provides no evidence to establish that the relationship between RAMS team employees and ROR employees has changed in any significant way since the decision in Case 11–RC–6312. Rather, the record demonstrates that some ROR employees now share a building with ESE employees and may, as a result, have more frequent contact with ESE employees.

In Case 11–CA–6312, the undersigned found that the Rams Team was part of an overall complement of approximately 120 employees employed by the Employer at the Charleston Air Force Base. These employees perform work to fulfill the obligations of the Employer pursuant to a flexible sustainment program under an agreement between the Employer and the U.S. Air Force. Specifically, the duties of the Rams Team employees under this project, at the direction of the U.S. Air Force, are to maintain, service, repair and install compliance tech quarters on U.S. Air Force aircraft. Based on the record as a whole, in Case 11–RC–6312, the undersigned specifically noted that: RAMS Team employees were geographically separated from ROR employees; RAMS Team employees had infrequent contact with ROR employees; there was no significant employee

interchange between RAMS and ROR employees; and RAMS employees and ROR employees did not share any meaningful functional interaction in their daily work. Accordingly, the undersigned concluded that a unit comprised solely of RAMS Team employees constituted an appropriate bargaining unit.

At the time of the instant hearing, William Forsher directly supervised 22 RAMS Team employees. Ten of those employees are permanently stationed at the Employer's Charleston Air Force Base location and 12 of those employees are RAMS employees from Long Beach, California, who are known as "visiting speed line employees," whom the parties agree should not be included in the unit herein. Forsher testified that RAMS employees assist the Air Force in correcting "open discrepancies" on aircraft. Although he reports locally to the Charleston Base Manager, he and his group are directed in their work by the Director of the Flex Contract who is stationed in Long Beach, California. This Director, and/or his subordinates at Long Beach, California, assign work to the Charleston Air Force Base RAMS department via work orders (worktime compliance tech orders called "TCTO's"). In making repairs pursuant to TCTO's, RAMS Team employees obtain required parts from Long Beach. RAMS employees repair "live"aircraft on the Air Force Base flight line. In making such repairs, RAMS Team mechanics utilize "support equipment," which literally supports, or lifts and keeps in place, heavy aircraft components such as engines. At the time of the decision in Case 11–RC–6312, Air Force personnel maintained and repaired this support equipment.

On January 20, 2000, the Employer, pursuant to a contract with the Air Force, began servicing and maintaining the support equipment. It recruited employees via its company-wide web site to fill positions within the ESE department. Three RAMS mechanics have transferred to ESE and one ROR employee has transferred to ESE. However, it is not clear whether those RAMS employees came from the local "permanent" RAMS contingent or the visiting speed line employees. Forsher merely testified that they came from his department. Nonetheless, all job postings, as noted above, are offered on the Employer's company-wide website and are open to all Boeing employees.

RAMS Team employees, particularly mechanics, and ESE employees possess similar skills and training. They are required to possess similar work certifications. However, they work on different equipment and do so in geographically distinct areas of the Charleston Air Force Base. RAMS Team employees are stationed in building 540 and work on "live" aircraft on the base flight line. ESE employees primarily work in building 545, which is located 150 yards from building 540.

The Employer asserts that support equipment changes hands between RAMS mechanics and Support Equipment mechanics every time it is used. And, RAMS mechanics and Support Equipment mechanics do significant portions of their jobs along the same flight line where the aircraft are parked and the support equipment is used. However, the record herein does not support these assertions or the Employer's claim that there is frequent contact between RAMS mechanics and ESE mechanics. RAMS mechanic Charles Stroud testified that he has had little if any contact with ESE mechanics. He stated that support equipment was often on the flight line when he arrived to do repairs. At other times, he procured needed support equipment himself without contacting ESE personnel. At other times, ESE personnel delivered support equipment to the flight line and then left. At the completion of a scheduled repair, Stroud either returns the support equipment or just leaves the support equipment on the flight line for later pickup by ESE employees. Contrary to the Employer's assertion, the record provides no evidence of significant or frequent contact between RAMS Team employees and ESE employees

In its argument that the appropriate unit would include Rams Team employees, ESE employees, and ROR employees, the Employer contends that these three groups of employees share a community of interest. The record does reflect that the RAMS Team, ESE and ROR employees have the same employment benefits, are subject to same personnel practices, and the rate of pay of the three groups of employees is comparable. However, RAMS Team employees and ESE employees work a 4-day workweek while ROR employees work a 5-day workweek. ESE employees wear uniforms, while RAMS Team employees and ROR employees do not. Moreover, RAMS Team employees work a different holiday schedule than do ROR and ESE employees, as a result of their differing lines of supervision. Although all Boeing employees can use Air Force mess and club facilities for meals and breaks, there is no indication in the record the RAMS Team employees, ESE employees and/or ROR employees in fact use these facilities in common. The record further reflects that RAMS Team employees use different parking facilities than do ROR employees and ESE employees.

The daily meetings of Rams Team employees are not attended by ESE or ROR employees, and the record in Case 11–RC–6312 shows that during the 5 years preceding that decision there had not been an employee meeting for just RAMS Team and ROR employees. Whenever social functions such as cookouts or dinners occur, all of the employees of the Employer at the Charleston Air Force Base and possibly others in the base community are included. There is no indication that there has ever been a social functions limited to these three groups.

Citing *Golden Eagle Motor Inn*, 246 NLRB 323 (1979), the Employer contends it would be inappropriate to allow RAMS Team employees to comprise a separate unit because they come in frequent contact with ROR and ESE employees. However, the record reflects that RAMS Team employees have minimal and infrequent contact with ESE employees and ROR employees, while the employees in the cited case had daily contact.

The Employer also asserts that RAMS Team employees, ROR and ESE employees share common supervision. It is true that the entire flexible sustainment program of the Employer is under the responsibility of James Sams, the Flexible Sustainment Contract's Program Director, who has ultimate supervisory authority over all of the 120 employees of the Employer working at the Charleston Air Force Base. However, the supervisor of the Rams Team has no authority over ESE or ROR employees; and similarly the supervisors over the ESE and ROR employees have no authority over Rams Team employees. Significantly, the record establishes that the RAMS Team Manager reports, for daily operational matters, to the Long Beach, California Manager and not to the Charleston, Air Force

Base Manager. The RAMS Team Manager only reports to the Charleston Air Force Base Manager in the event of accidents or major problems. The ROR and ESE managers, on the other hand, report for all matters directly to the Charleston Air Force Base Manager.

Based on the foregoing and the record as a whole, I find that the bargaining unit sought by Petitioner consisting of only Rams Team employees constitutes an appropriate unit and I hereby direct that an election be conducted therein. In so concluding, I note that the record is clear that there exists significant geographic separation in day-to-day working conditions, which contributes to the infrequent contact and interchange between Rams Team employees and ESE and ROR employees. Though three RAMS employees and an ROR employee transferred to ESE and became part of the initial complement of ESE employees, there is no history of ESE employees transferring to the RAMS Team and only one ROR employee transferred to the Rams Team for an approximate period of 2 years. Without more, this does not establish a pattern of employee interchange. *St. Vincent Hospital & Medical Center of Toledo Ohio*, 241 NLRB 492 (1979). Moreover, these three groups do not share any meaningful functional interaction in their daily work. *Ore-Ida Foods, Inc.*, 313 NLRB 1016 (1994). Although centralized administration and common benefits and personnel policies may well support a finding that a broader unit, if sought, also would be an appropriate unit, it is up to the Employer to establish that the petitioned-for narrower unit is inappropriate. *NLRB v. Living & Learning Centers*, 652 F.2d 209, 213 (1981); *Omni International Hotel*, 283 NLRB 475, 476 (1987). The Employer has not established that the petitioned-for unit is inappropriate. While the Employer maintains that the appropriate unit herein should consist of an overall unit comprised of the Rams Team, ESE employees and the ROR employees, who ship, receive and store aircraft parts, or alternatively, that the minimally acceptable unit should include RAMS Team employees and ESE employees, the Board has long held that the Act does not require that the bargaining unit approved by the Board be the only appropriate unit, or even the most appropriate unit; it is only required that the unit be an appropriate unit. *Lundy Packing Co.*, 314 NLRB 1042, 1043 (1994); *Omni International Hotel*, 283 NLRB 475 (1987); *Friendly Ice Cream Corp. v. NLRB*, 705 F.2d 570 (1st Cir. 1983); *NLRB v. J. C. Penney Co.*, 620 F.2d 718, 719 (9th Cir. 1980); *Morand Bros. Beverage Co.*, 91 NLRB 409, 418 (1950), enfd. 190 F.2d 576 (7th Cir. 1951).